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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Inventors: Wm. R. VAN ETTEN et al.

Examiner: D. E. Kerr

Appln No.: 09/348,693

Art. Unit: 2165

Filed: July 7, 1999

For: INFORMATION TRANSLATION COMMUNICATION PROTOCOL

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PETITION FOR WITHDRAWAL OF FINAL REJECTION AS PREMATURE

Assistant Commissioner of Patents
Washington, D.C. 20231

Sir:

In the above-captioned Application, Applicants hereby request reconsideration and withdrawal of the finality of the Rejection, mailed on July 29, 2002, as premature, for reasons discussed in the following remarks.

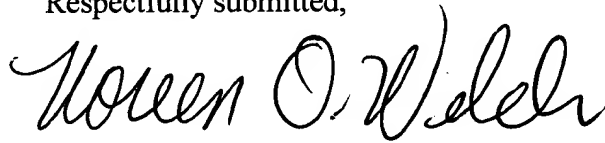
In the Final Rejection, the Examiner rejected claims 1-3, 8-10, 11-16 and 17-26 under 35 U.S.C. 103(a) as being unpatentable over Povilus (US 5,740,425) in view of Dudle et al. (US 5,570,291). The Examiner alleges that this rejection puts forth new arguments using the same art as the prior Office Action (page 2, last paragraph). However, the Final Rejection is the first time Applicants are seeing the Examiner's 35 U.S.C. 103(a) rejection and due to the finality of the rejection are constrained from responding by adding additional claims, amending the existing claims or presenting showings, all entered as a matter of right. In the prior Office Action, these same claims were rejected only under 35 U.S.C. 102(b) as being clearly anticipated by Povilus (US Patent No. 5,740,425). Applicants did not amend these claims subsequent to the 35 U.S.C. 102(b) rejections and thus, there was no excuse for the Examiner to cite Dudle et al. against these claims except in a non-final Office Action.

Applicants respectfully assert that in making the 35 U.S.C. 103(a) rejection of the above-listed claims in the Final Rejection, the Examiner has introduced a new ground of rejection that is not necessitated by applicant's amendment of the claims, thereby rendering the Final Rejection premature (MPEP §706.07(a)).

In view of the foregoing remarks, Applicants respectfully request withdrawal of the Final Rejection as premature.

If any issues remain which may be best resolved through a telephone communication, the Examiner is requested to kindly telephone the undersigned at the local, Washington D.C. telephone number listed below.

Respectfully submitted,



Date: August 29, 2002

Noreen O. Welch
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